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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,968	02/09/2004	Nina L. Walters	Walters I	8770
<div>7590 Michael D. Wiggins 950 Harmon Birmingham, MI 48009</div>				
EXAMINER				
MERCIER, MELISSA S				
ART UNIT		PAPER NUMBER		
1615				
MAIL DATE		DELIVERY MODE		
02/21/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/774,968

**Applicant(s)**

WALTERS ET AL.

**Examiner**

Melissa S. Mercier

**Art Unit**

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## **DETAILED ACTION**

### **Summary**

Receipt of Applicants Remarks and Amended Claims filed on November 19, 2007 is acknowledged. Claims 1-13 are pending in this application.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what applicant is claiming by "a fastener that is associated with at least one of said lotion impregnated sheet and said applicator body". It is unclear what association is present. It is also unclear how many lotion-impregnated sheets are to be utilized at a time, since the claim states at least one of said sheets.

### ***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive. Applicant argues the Examiner asserts that the claim limitation "a fastener that is associated with at least one of said lotion impregnated sheet and said applicator body" is unclear. Applicant respectfully asserts that this language is very clear. Either the fastener is associated with the sheet, the applicator body or both. The use of "at least one of" language is well known and is the correct way to claim one or the other or both.

In the drawings, the fasteners are associated with the body. The specification also states other variations at least in Paragraph 25 that involve the fastener being associated with the sheet as well. While the claims are read in light of the specification, limitations from the specification are not read into the claims. It is suggested that applicant use the terminology "selected from the group consisting of..." in order to clarify the claim language.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg (US Patent 6,981,293) in view of Brower et al. (US Patent 6,250,829).

Steinberg discloses a device for providing self-assisting hygienic activity to individuals of limited dexterity, the device including an elongated body constructed of first and second telescoping portions and terminating at a first end in an ergonomically configured handle. A hygienic related accessory is secured to the other end of the elongated body. The accessory capable of being manipulated relative to the elongated body in at least one of axially extending and angularly configurable fashions and the accessory is further capable of being releasable engage able to the associated end of the elongated body and substituted by at least one alternately configured accessory drawn from at least one of a sponge attachment, lotion dispensing attachment,

disposable sheet attachment, scrub brush attachment and powder applicator attachment (abstract).

Steinberg's figure 8 shows a gripping location which illustrates a number of individual and flexible leafs arranged in annularly disposed fashion for gripping a selected corner of the attachable sheet (column 3, lines 23-26).

Steinberg does not disclose the use of a lotion impregnated sheet.

Brower discloses an applicator article for the convenient and controlled application of lotion to a user's skin that is impregnated with fluid. The lotion may be a combination of sunscreen and insect repellent (abstract).

Applicant is reminded that where the general conditions of the claims are met, burden is shifted to applicant to provide a patentable distinction. The prior art reference does not disclose the top surface having an arcuate cross section and a bottom surface having a substantially planar surface, however, barring a showing to criticality of the claimed design, it is the examiners position that it would have been obvious to a person of ordinary skill in the art to design the applicator body in any manner suitable to meet the needs of the intended function.

It is the examiners position that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have incorporated a lotion impregnated sheet, or in the alternative, it is the examiners position that a disposable sheet attachment would encompass a lotion impregnated sheet, since Steinberg discloses the objective of the apparatus is to provide self-assisting hygienic activity to individuals of limited dexterity (abstract).

***Response to Arguments***

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

No claims are allowable. Due to the new grounds of rejection, this action is made Non-Final. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA S. MERCIER whose telephone number is (571)272-9039. The examiner can normally be reached on 7:30am-4pm Mon through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSMercier

/Michael P Woodward/  
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